

No. 2011-50864-367

STEVEN D. CUSHMAN IN THE  
INTEREST OF BLAINE RYAN  
CUSHMAN, A MINOR

VS.

CITY OF DENTON, TEXAS,  
DENTON POLICE DEPARTMENT,  
ROY MINTER JR, INDIVIDUALLY  
AND AS A DENTON POLICE  
OFFICER AND MARK KING,  
INDIVIDUALLY AND AS A  
DENTON POLICE OFFICER

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

367<sup>th</sup> JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

FILED  
DENTON COUNTY, TEXAS  
2011 OCT 21 AM 9:53  
SHERIFF  
DISTRICT CLERK  
DEPUTY  
BY 86P

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES STEVEN D. CUSHMAN IN THE INTEREST OF BLAINE RYAN CUSHMAN, A MINOR, Plaintiff herein, and files this Original Petition complaining of Defendant, The City of Denton, Texas, The Denton Police Department, Roy Minter Jr., individually and as Police Chief in official capacity and Mark King, individually and as a Denton Police Officer in official capacity and for cause would respectfully show the Court the following:



I.

**PARTIES**

Plaintiff is a resident of Denton County, Texas.

Defendant, The City of Denton, is a municipality incorporated in the State of Texas. Defendant, The Denton Police Department, is a governmental agency operating under the auspices of The City of Denton, Texas. Defendant, Roy Minter Jr. is an individual and at all times during the wrongful actions the subject of this suit, was the Chief of Police, employed by and acting under the authority, direction and control of The City of Denton Police Department. Defendant, Mark King is an individual and at all times during the wrongful actions the subject of this suit, was a Police Officer, employed by and acting under the authority, direction and control of The City of Denton Police Department.

Process of service may be made upon Anita Burgess, City Attorney, City of Denton, 215 E. McKinney Street, Denton, Texas 76201 or anywhere else found in the State of Texas; the Chief of Police, Paul Abbott, City of Denton Police Department, 601 E. Hickory Suite E, Denton, Texas 76205 or anywhere else found in the State of Texas; Officer Mark King, City of Denton Police Department, 601 E. Hickory Suite E., Denton, Texas 76205 or anywhere else found in the State of Texas and Roy Minter Jr., former Chief of Police, Denton, Texas, may be served at the Peoria, Arizona Police Department 8401 W. Monroe Street Peoria, Arizona 85345.

II

**VENUE**



Venue is proper in Denton County, Texas as all facts and events giving rise to this cause of action occurred in Denton County, Texas of which Plaintiff and Defendants were residing at the time of the incident the subject of this suit.

### **III**

#### **DISCOVERY LEVEL**

Discovery is intended to be conducted under Level II of the Texas Rules of Civil Procedure.

### **IV**

#### **BACKGROUND**

On October 22, 2009, Plaintiff's son Blaine R. Cushman , A minor, was stopped by City of Denton Police Officer Mark King, badge number 120, at 100 North Loop 288, Denton, Texas 76205. Cushman was driving a 1992 Ford Taurus registered to Plaintiff, Steven D. Cushman. After approaching the vehicle and making contact with Cushman, Officer King advised Cushman he was stopped for reasonable suspicion of "illegal window tint". Officer King Performed a light transmission test with a light transmission meter believed to be a Pocket Detective Window Tint Meter, on the vehicle window. Cushman was not advised a search of the vehicle was to occur and Officer King did not obtain consent by Cushman. Cushman was advised the window tint on the left rear passenger windows was "illegal" and was subsequently issued citation number



10099708, attached hereto as Plaintiff Exhibit "A", for 'Window/Unauthorized Glass Coating for both rear passenger windows.

On October 23, 2009, Plaintiff obtained a copy of the Texas Traffic Code 2009 edition which was passed into law in January 2009 and became enforceable on September 1, 2009. Under the Texas Traffic code for 2009, windows in the rear of a vehicle on the sides are exempt from window tint standards under Texas Transportation Code as amended by Senate Bill 589 as authored by Senator Carona. Officer King therefore could not have possessed the reasonable suspicion for the stop nor the probable cause for search. Officer King has failed to obtain the proper training and knowledge of the law to perform his duties as a Peace Officer as intended in the Texas Criminal Code of Procedure. It should be noted the training of police officer is the responsibility of the superior commanding officers and the police department as prescribed by the Texas Commission on Law Enforcement Officer Standards and Education. In such fact, Officer King further violated the victim's rights under state and federal 42 USC 1983. It is further added that Officer King was patrolling an area where students must travel in order to leave school at a specific time of day for classes at other campus locations and it is believed Officer King used this knowledge to his favor to profile the victim as a violator for truancy laws of the State of Texas. Officer King by his actions made the victim late for class and in fact aided in the truancy of the victim.

On or about April 2011, Plaintiff's son Blaine R. Cushman enlisted in the United States Navy under the nuclear program. After testing and being accepted into the program, Cushman was questioned about the citation the subject of this suit and subsequently his enlistment in the United States Navy was postponed and placed in



jeopardy causing severe emotional distress to Plaintiff and Plaintiff's son Blaine Ryan Cushman.

V

**DAMAGES**

The City of Denton is liable to Plaintiff, Blaine Ryan Cushman, under the theories of 1) Respondeat Superior, 2) negligence in retaining and maintaining an untrained police department force, negligent in failure to train, giving police officers sufficient skills, knowledge, or level of expertise needed for the job assigned; negligent supervision, in not properly overseeing or supervising the officer; negligent failure to direct, in failing to adequately inform the officer of the extent and limits of his job to be performed; negligent entrustment, in failure to supervise or control properly the officer's custody, use or supervision of equipment or facilities entrusted to the officer on the job; and negligent assignment, in assigning police officers to a job without ascertaining whether the officer was adequately prepared for it, or keeping the officer on the job after he was known to be unfit. 3) violations of Plaintiff, Blaine Ryan Cushman's state and federal 42 USC 1983 civil rights.

The City of Denton Police Department is liable to Plaintiff, Blaine Ryan Cushman, under the theories of 1) Respondeat Superior, 2) negligence in retaining and maintaining an untrained police department personal, negligent in failure to train, giving Officer's sufficient skills, knowledge, or level of expertise needed for the job assigned; negligent supervision, in not properly overseeing or supervising the officer; negligent





failure to direct, in failing to adequately inform the officer of the extent and limits of his job to be performed; negligent entrustment, in failure to supervise or control properly the officer's custody, use or supervision of equipment or facilities entrusted to the officer on the job; and negligent assignment, in assigning Officer's to a job without ascertaining whether the officer was adequately prepared for it, or keeping the officer on the job after he was known to be unfit. 3) violations of Plaintiff, Blaine Ryan Cushman's state and federal 42 USC 1983 civil rights.

Chief of Police Roy Minter Jr., is liable to Plaintiff Blaine Ryan Cushman under the theories of 1) Respondeat Superior, 2) negligent in failure to train, giving Officer King sufficient skills, knowledge, or level of expertise needed for the job assigned; negligent supervision, in not properly overseeing or supervising the officer; negligent failure to direct, in failing to adequately inform the officer of the extent and limits of his job to be performed; negligent entrustment, in failure to supervise or control properly the officer's custody, use or supervision of equipment or facilities entrusted to the officer on the job; and negligent assignment, in assigning Officer King to a job without ascertaining whether the officer was adequately prepared for it, or keeping the officer on the job after he was known to be unfit., 3) violations of Plaintiff Blaine Ryan Cushman's state and federal 42 USC 1983 civil rights.

Officer King is liable to Plaintiff, Blaine Ryan Cushman, under the theories of negligence and violation of Blaine Ryan Cushman's state and federal 42 USC 1983 civil rights. As a lifelong resident of Denton, Blaine Ryan Cushman has a right to be protected under the laws of the State of Texas, not harassed and forced to violate state laws at the hands of those sworn to protect him causing emotional and irreversible damages.



Defendant's negligence has caused injury and damages to Plaintiff. Defendant is obligated to Plaintiff for suffered injury as a matter of law. Plaintiff seeks judgment against Defendant for damages in the amount of Five Hundred Thousand Dollars (\$500,000.00)

## VI

### CAUSE OF ACTION

As a direct and proximate cause of Defendant's negligence and/or intentional infliction of emotional distress, unlawful conduct, and/or violation of state and federal 42 USC 1983 civil rights, Blaine Ryan Cushman suffered emotional distress leaving him questioning the very laws he was to be protected under. He struggles with respect of authority and those sworn to protect his civil rights.

## VII

### PRAYER

#### PREMISES CONSIDERED,

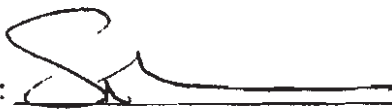
1. Plaintiff have judgment for damages against Defendant's in the principal sum of Five Hundred Thousand Dollars (\$500,000.00).
2. Plaintiff have judgment against Defendant's for exemplary damages.
3. Plaintiff be awarded contractual interest at the agreed rate or maximum legal rate allowed by law.



5. All costs of court in this behalf extended; and for such further relief to which Plaintiff may show himself justly entitled either at law or in equity.

Respectfully Submitted,

Steve D. Cushman  
2301 Georgetown  
Denton, Texas 76201  
940-735-1879  
Fax 940-891-0109

BY:   
Steve D. Cushman



CERTIFIED A TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE IN MY OFFICE

SHERRI ADELSTEIN

DENTON COUNTY DISTRICT CLERK



  
Date

By:   
Deputy Clerk



# Exhibit "A"



<b>Denton Police Dept.</b>		<b>Citation No. 10099708</b>		<b>Picture:</b>
<b>County: Denton</b>		<b>Date/Time: 10/22/2009 10:12</b>		
<b>VIOLATOR MINOR</b>				
<b>Name: CUSHMAN, BLAINE RYAN (last, first middle)</b>				
<b>Address: 2301 GEORGETOWN</b>				
<b>City: DENTON</b>		<b>Stat: TX</b>	<b>Zip: 76201</b>	<b>Officer Notes:</b> TESTED BACK LEFT TIR100
<b>Hgt: 602</b>	<b>Wgt: 170</b>	<b>Sex: M</b>	<b>Eyes: BRO Hair: BRO Rac: W</b>	
<b>Employer</b>				
<b>Address:</b>		<b>Work Phone:</b>		
<b>City:</b>	<b>State: TX</b>	<b>Zip:</b>		
<b>DL #: 26348070</b>	<b>DL: TX</b>	<b>CDL: No</b>		
<b>DL 9/4/2010</b>	<b>Type: C</b>	<b>DOB: 9/4/1992</b>		
<b>VEHICLE</b>				
<b>Veh Yr: 1992</b>	<b>Veh: Z28KHF</b>	<b>State: TX</b>		
<b>Color: BLUE</b>	<b>Comm No</b>	<b>Haz No</b>		
<b>Make: FORD</b>	<b>Model: TAURUS</b>	<b>Typ: 4 DOOR</b>		
<b>VIN: 1FACP54Y3NA197260</b>				
<b>VIOLATIONS</b>				
<b>CITATION Violation: Window/Unauthorized Glass Coating</b>				
<b>LOCATION AND VIOLATION INFORMATION</b>				
<b>Location: 100 LOOP 288-NORTH and MCKINNEY STREET-EAST</b>		<b>Direction: N</b>		
<b>Alleged:</b>	<b>Limit:</b>	<b>Spd Det:</b>		
<b>Const. No</b>	<b>School No</b>	<b>Step: NO</b>		
<b>Arrest: No</b>	<b>Accident: No</b>			
<b>Search: *NO SEARCH</b>	<b>Contraba: *NONE</b>			
<b>Issued By: Officer King 120</b>				
<i>Without admitting guilt, I promise to appear in the City of Denton Municipal Court on or before the date stated below and in accordance with appearance instructions on citation.</i>				
<b>Court Date: 11/12/2009</b>				
<b>Signature</b>				
<b>This is not a plea of guilty.</b>				
<b>COURT INFORMATION</b>				
<b>YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THE MUNICIPAL COURT JUDGE</b>				
<b>Denton Municipal Court</b>		<b>Mon-Wed, Fri: 7:30 a.m.-4:00 p.m.</b>		
<b>501 E Hickory St. Suite #D</b>		<b>Thur: 7:30 a.m.-6:30 p.m.</b>		
<b>Denton, TX 76205</b>		<b>Phone: (940) 349-8331</b>		
		<b>Fax: (940) 349-8325</b>		
<b>Assignment: TRAFFIC</b>				
<b>District: L</b>				
<b>Case #:</b>				
<b>Radar #:</b>				
<b>Radar Moving/Sta:</b>				
<b>Radar Calibrated: YES</b>				
<b>Distance:</b>				
<b>Reg Expires: 0610</b>				
<b>Insp Expires:</b>				
<b>Trailer Reg Expires:</b>				
<b>Trailer Tag:</b>				
<b>Trailer State: TX</b>				
<b>Weather: CLOUDY</b>				
<b>Occupants: 1</b>				
<b>Dot #:</b>				
<b>Tint: 6</b>				
<b>Attitude:</b>				
<b>DL Swipe: Yes</b>				



**CITATION – Personal Service: TRC 99 and 106**

OCT 24 2011

CITY OF DENTON  
LEGAL DEPT

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 2011-50864-367

TO: City of Denton, Texas by serving City Attorney Anita Burgess 215 E McKinney St Denton TX 76201; (or wherever he/she may be found)

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	367th Judicial District Court 1450 E. McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	2011-50864-367
Date of Filing:	October 21, 2011
Document:	Plaintiff's Original Petition
Parties in Suit:	Steve D. Cushman; City of Denton, Texas; Denton Police Department; Roy Minter, Jr ; Mark King
Clerk:	Sherri Adelstein, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	Steve D. Cushman 2301 Georgetown, Denton, TX 76201

Issued under my hand and seal of this said court on this the 21st day of October, 2011.

Sherri Adelstein, District Clerk  
Denton, Denton County, Texas

BY:



JoAnna Price

*JoAnna Price*, Deputy

**Service Return**

Came to hand on the 24 day of October, 2011, at 2:30 p.m., and executed on the 24 day of October, 2011 at 4:10 PM by delivering to the within named City of Denton via Jennifer Walters, City Secretary in person a true copy of this citation, with attached copy(ies)

of the Plaintiff's Original Petition, at 215 E. McKinney, Denton, Tx.

Service Fee: \$ \_\_\_\_\_

Sheriff/Constable  
County, Texas

Service ID No. SCH3605

*JoAnna Price*  
Deputy/Authorized Person

**VERIFICATION**

On this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Notary Public

COPY

# CITATION – Personal Service: TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 2011-50864-367

TO: Mark King by serving at City of Denton Police Department 601 E Hickory STE E. Denton TX 76205; (or wherever he/she may be found)

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	367th Judicial District Court 1450 E. McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	2011-50864-367
Date of Filing:	October 21, 2011
Document:	Plaintiff's Original Petition
Parties in Suit:	Steve D. Cushman; City of Denton, Texas; Denton Police Department; Roy Minter, Jr ; Mark King
Clerk:	Sherri Adelstein, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	Steve D. Cushman 2301 Georgetown, Denton, TX 76201

Issued under my hand and seal of this said court on this the 21st day of October, 2011.

Sherri Adelstein, District Clerk  
Denton, Denton County, Texas

BY:



JoAnna Price

JoAnna Price, Deputy

## Service Return

Came to hand on the 24 day of October, 2011, at 2:30pm., and executed on the 26 day of October, 2011, at 6:45 PM by delivering to the within named Mark King City of Denton Police Department in person a true copy of this citation, with attached copy(ies)

of the Plaintiff's Original Petition, at

US State Hwy 380 / Paloma Creek

Service Fee: \$ \_\_\_\_\_

Sheriff/Constable  
County, Texas

Service ID No. SC #3605

Car. Sauti  
Deputy/Authorized Person

## VERIFICATION

On this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Notary Public

COPY

**CITATION – Personal Service: TRC 99 and 106**

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 2011-50864-367

TO: Denton Police Department by serving Chief of Police Paul Abbott 601 E Hickory STE E Denton TX 76205; (or wherever he/she may be found)

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	367th Judicial District Court 1450 E, McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	2011-50864-367
Date of Filing:	October 21, 2011
Document:	Plaintiff's Original Petition
Parties in Suit:	Steve D. Cushman; City of Denton, Texas; Denton Police Department; Roy Minter, Jr ; Mark King
Clerk:	Sherri Adelstein, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	Steve D. Cushman 2301 Georgetown, Denton, TX 76201

Issued under my hand and seal of this said court on this the 21st day of October, 2011.

Sherri Adelstein, District Clerk  
Denton, Denton County, Texas

BY:



Anna Price

Deputy

**Service Return**

Came to hand on the 24 day of October, 2011, at 2:30 p.m., and executed on the 24 day of October, 2011, at 3:00 a.m. by delivering to the within named Denton Police Department Chief of Police Paul Abbott in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition, at Denton Police Department.

Service Fee: \$       Service ID No. SCH3605

Sheriff/Constable  
County, Texas

Deputy/Authorized Person

**VERIFICATION**

On this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

COPY